

BUREAU OF AUTOMOTIVE REPAIR

INITIAL STATEMENT OF REASONS

Hearing Dates: March 6 and 8, 2002

Subject Matter: Mandatory Emissions Inspection Standards and Test Procedures; TABLE I, Acceleration Simulation Mode Emission Standards and Gross Polluter Standards

Sections Affected: § 3340.42, Title 16, Division 33, Chapter 1, Article 5.5, California Code of Regulations

Problem Addressed:

In July 2000, the California Air Resources Board (ARB) released a report on the effectiveness of the Smog Check Program (Program). ARB's report indicates that while the current Program is reducing a significant amount of motor vehicle emissions, improvements to the Program must be made if California is to meet federal air quality standards. For example, California's 1995 State Implementation Plan - the blueprint submitted to the United States Environmental Protection Agency (USEPA) that explains how the state will achieve compliance – claimed an emissions reduction of 112 tons per day (tpd) for the Program. The report found that the emissions reductions associated with the Program are closer to 65 tpd.

From many perspectives, achieving compliance with the federal air quality standards is vitally important to California. The federal government may withhold highway trust funds or impose other sanctions on the state, including the implementation of a federally designed Smog Check Program. Noncompliance has already triggered a third-party lawsuit against local metropolitan planning agencies, which rely on the emission reductions of the Program to acquire approval and federal funding for transportation improvement projects.

While these economic concerns are important, improving the air quality is essential to the health of all Californians. Senior citizens, the infirm, and children are at greatest risk from poor air quality. The USEPA estimates that between five and twenty percent of the population is especially susceptible to the effects of ozone, an airborne chemical that reacts in chemically adverse ways with internal body tissues.

Specific Purpose of Regulatory Proposal:

Generally, this regulatory proposal is designed to implement one of the recommendations made by the ARB and the Bureau of Automotive Repair (Bureau) on how to improve the effectiveness of the Program.

The proposal adopts new tailpipe emissions cut-points (in table form) for vehicles subject

to the loaded-mode test. At this time, three tables that specify the applicable emissions cut-points for vehicles are present in the existing regulation: TABLE I for loaded-mode tests used in the enhanced areas, TABLE II (which is inoperative), and TABLE III for the two-speed idle test used in the remainder of the state.

By amending TABLE I, this proposal would establish new, more stringent cut-points for vehicles registered in or seeking registration in, enhanced areas of California. These tougher cut-points are necessary to identify high emitting vehicles so that the necessary emissions-reducing repairs can be performed.

California's 112 tons per day (tpd) of emissions reductions claimed in the 1995 SIP were based on stringent cut-points that are not currently in regulation. This proposal would begin the process of allowing the Bureau to gradually implement the SIP-like cut-points for certain model-year vehicles. For some model-years, current cut-points are stringent enough to maximize emissions reductions.

Beyond new cut-points, Table I will also be revised to include new emission standards categories (ESCs). New categories are warranted because of changes to vehicle technology and the need to keep emissions categories for passenger cars and light-duty trucks separate, especially given the Bureau's proposal (as suggested by ARB) to subject heavy-duty vehicles to loaded-mode testing. Moreover, these new ESCs are derived from the Federal Test Procedure (FTP) used to certify vehicles for sale in California.

Factual Basis:

In the middle of 2000, the California Air Resources Board (ARB) released a report on the effectiveness of the Program. ARB's report indicates that while the current Program is reducing a significant amount of motor vehicle emissions, improvements to the Program must be made if California is to meet federal air quality standards. For example, California's 1995 State Implementation Plan - the blueprint submitted to the United States Environmental Protection Agency that explains how the state will achieve compliance - claimed an emissions reduction of 112 tpd for the Program. ARB's report found that the emissions reductions associated with the Program are closer to 65 tpd, indicating that improvements are needed.

In a joint letter to the USEPA explaining how the shortfall could be eliminated, the Bureau and ARB asserted that near-term improvements to the Smog Check Program would result in a statewide emission reduction of almost 14 tpd by 2002. By 2005, the benefit increases to almost 22 tpd, and in 2008, the benefit reaches its maximum projected value of 24.1 tpd.

The proposed improvements include: more stringent emission cut-points; loaded-mode testing for heavy-duty trucks; a remote sensing component; improved evaporative testing; and, more vehicles directed to test-only or high-performing test-and-repair stations. Of course, long-term changes to the Program are also necessary, but such changes are outside the scope of these proposed regulations. The proposed action addresses the adjustment of the Program's emission cut-points to more closely align them with the cut-points developed by ARB. The method of

calculating these cut-points is detailed in an ARB memorandum dated July 23, 2001, from Steven Magbuhat to Jeff Long.

Underlying Data:

1. *Revised State Implementation Plan for California's Motor Vehicle Inspection & Maintenance Program*, California Department of Consumer Affairs, Bureau of Automotive Repair, December 1995
2. *Evaluation of California's Enhanced Vehicle Inspection and Maintenance Program (Smog Check II)*, California Environmental Protection Agency, Air Resources Board, July 12, 2000
3. Program Improvement Plan, Letter dated August 17, 2000, from Air Resources Board to Regional Administrator, Region IX, U. S. Environmental Protection Agency
4. Revision of CARB's SIP Cut-Points, Memorandum dated July 23, 2001, from Steven Magbuhat to Jeff Long

Business Impact:

This regulation will not have a significant adverse economic impact on businesses.

The directly regulated community – licensed smog check technicians and stations – will more than likely be positively impacted by the proposed regulations. As the cut-points become more stringent, more vehicles will fail and the demand for repairs and after-repair re-tests will increase. This increased demand should result in additional business activity for all smog check stations.

Consumer (Individual) Impact and Mitigation Strategies

The Bureau recognizes that the more stringent cut-points may have some adverse impacts on consumers (individuals) since vehicles that now pass an inspection may fail once the new cut-points are in place. In general, consumers are protected from overly stringent cut-points because existing law prohibits the Bureau from adopting in-use cut-points that are more stringent than the vehicle's original certification standards.

Currently, the failure rate (tailpipe only) in the enhanced areas stands at 12.84%. After the adoption of the most stringent cut-points allowed by this proposal, the Bureau predicts that the failure rate will only increase to 17.88%, a change of approximately 5%. The average repair cost for enhanced area vehicles was only \$128 in fiscal year 2000/2001. Based on historical data, the Bureau estimates that the total repair cost impact of the proposed change on affected consumers (individuals) to be approximately \$2,888,453, assuming the average emission repair cost remains constant.

However, the Bureau believes the impact of the new cut-points can be sufficiently mitigated by:

- A phased-in, or gradual implementation of the new cut-points. The Bureau will gradually implement the new cut-points and closely monitor failure rates and repair costs.
- The Bureau's Consumer Assistance Program (CAP). Under the provisions of this program, consumers who own vehicles that have failed a biennial smog check inspection can receive \$1,000 from the state to retire the vehicle. Low-income consumers are eligible for up to \$500 in repair assistance from the state with a co-payment of only \$20. A consumer who owns a vehicle that was directed to a test-only station for its initial inspection is also eligible for up to \$500 in repair assistance, with a \$100 co-payment, irrespective of the consumer's annual income.
- Moreover, state law already exempts vehicles less than four years old from the biennial inspection requirement.

Specific Technologies or Equipment:

This regulation does not mandate the use of specific technologies or equipment.

Consideration of Alternatives:

No reasonable alternative which was considered or that has otherwise been identified and brought to the attention of the Bureau would be either more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposed regulation.

No reasonable alternative has been considered or identified.